

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 UNITED STATES OF AMERICA

4:19-cr-0026

5 VS.

August 2, 2023

6 Houston, Texas

8:52:17 a.m.

7 ELEXIS KIERRA SIDNEY

8
9
10
11 SENTENCING

12 BEFORE THE HONORABLE CHIEF JUDGE RANDY CRANE

13 UNITED STATES DISTRICT COURT

14 APPEARANCES:

15 For the United States

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18 For the Defendant

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24 Also Present

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25 Proceedings from official electronic sound recording;
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DIGITAL SCROLL TRANSCRIPTION

281.382.9862

1 THE COURT: All right.

2 Good morning, everyone.

3 Please be seated.

4 All right. Let me call this morning 19-cr-26,
5 USA versus Elexis Kierra Sidney.

6 MS. LEO: Good morning, Your Honor, Kimberly Leo on
7 behalf of the United States.

8 MR. ROSA-AMBERT: Good morning, Your Honor, Alex Omar
9 Rosa-Ambert on behalf of the Defendant.

10 THE COURT: Good morning, again.

11 MS. LEO: Your Honor?

12 THE COURT: Yes.

13 MS. LEO: If I just may?

14 THE COURT: You may.

15 MS. LEO: There is a - there are two victims in
16 regards to this particular case.

17 THE COURT: Um-hmm.

18 MS. LEO: One of the parents for Victim No. 2 is
19 actually on her way to the courthouse. I believe she was
20 stuck in some traffic.

21 THE COURT: Um-hmm.

22 MS. LEO: We just spoke to her, and she should be
23 here in about 10 to 15 minutes.

24 THE COURT: Okay.

25 MS. LEO: So, I apologize to the Court. We had told

1 her to be here by nine o'clock. I don't know if the Court
2 could maybe -

3 THE COURT: So, you said there were people for both
4 victims. One of them was her daughter.

5 MS. LEO: Yes, Your Honor.

6 This is - oh, no. One was her son.

7 THE COURT: Her son.

8 MS. LEO: The other one was -

9 THE COURT: The two-year-old?

10 MS. LEO: -- her niece.

11 Her son is the two-year-old.

12 THE COURT: Okay.

13 MS. LEO: And then, there is a three-year-old niece.

14 So, the mother of the three-year-old niece is on
15 her way.

16 THE COURT: Okay.

17 All right. Well -

18 MS. LEO: And, Your Honor, if the Court -

19 THE COURT: Ten or fif- --

20 MS. LEO: -- wants to go forward, she just -

21 THE COURT: Now -

22 MS. LEO: -- may be coming in late, and I'm not sure
23 if she wants to address the Court.

24 THE COURT: Well, I assume she's coming because she
25 wants to allocute.

1 MS. LEO: That -

2 THE COURT: Or at least see -

3 MS. LEO: Yes, Your Honor.

4 THE COURT: And -

5 MS. LEO: And she was here the last time before it
6 was reset, and so, she was - she wanted to be present.

7 THE COURT: Sure.

8 MS. LEO: And so, I just wanted to bring that to the
9 Court's attention that she should be here in 10 or 15 minutes.

10 THE COURT: Is that her sister or sister-in-law?

11 MS. LEO: I believe it would be sis- -- akin to a
12 sister-in-law.

13 MR. ROSA-AMBERT: It is her sister-in- -- similar to
14 it, Your Honor. Yes.

15 THE COURT: Okay.

16 MR. ROSA-AMBERT: On that note, Your Honor, I do
17 acknowledge that the Court wanted these proceedings to be
18 closed. However, on - over my left shoulder is my client's
19 family.

20 THE COURT: Sure.

21 MR. ROSA-AMBERT: They also want to be present in the
22 proceedings.

23 THE COURT: Of course.

24 MR. ROSA-AMBERT: Yeah.

25 THE COURT: I just don't do porn cases with any other

1 defendants who are going to be back in the same facility,
2 because often it presents security problems. Those people end
3 up getting victimized. You have to put them in solitary and
4 keep them away from other -

5 But I understand she's in general population
6 right now, and probably people are aware of what her charges
7 are, so maybe not as important that I follow my own policy in
8 that regard. But it's really just to keep them away from
9 other prisoners.

10 So, I'm happy to recess for 10 minutes or 15
11 minutes.

12 MS. LEO: If the Court could that would be -

13 THE COURT: Sure.

14 MS. LEO: -- greatly appreciated just because I know
15 she's on her way, and - and she was present the last time.

16 THE COURT: Okay.

17 Well, let's give her a chance to be here.
18 Obviously, this is a big deal to her that her child was
19 victimized like this.

20 All right. Then, we'll be in recess for 10
21 minutes or so.

22 MS. LEO: And I apologize to the Court about this,
23 Your Honor.

24 THE COURT: No, it's not your fault.

25 All right. So, just let my Case Manager or

1 someone know, and they'll come get me.

2 MS. LEO: Yes, Your Honor.

3 THE COURT: All right.

4 MR. ROSA-AMBERT: Thank you, sir.

5 THE COURT: Thanks.

6 We'll be in recess.

7 (Recess taken at 9:00:19 a.m.)

8 (Proceedings resumed at 9:21:30 a.m.)

9 THE COURT: All right.

10 Good morning, again.

11 Please be seated.

12 All right. Let me recall 19-cr- -- 19-cr-52- --
13 is that 6- -- sorry -- 19-cr-26, USA versus Elexis Kierra
14 Sidney.

15 Announcements for the Government?

16 MS. LEO: Good morning, Your Honor. Kimberly Leo on
17 behalf of the United States.

18 THE COURT: And again, for the Defendant?

19 MR. ROSA-AMBERT: Good morning, Your Honor.
20 Alex Omar Rosa-Ambert on behalf of Ms. Sidney.

21 THE COURT: Great.

22 All right. So, Ms. Sidney, there was a
23 Presentence Report prepared about you in your case. I just
24 need to make sure you got a chance to review that with your
25 lawyer.

1 DEFENDANT SIDNEY: Yes, sir.

2 THE COURT: Perfect.

3 Okay. And let's see third acceptance point off.

4 I assume the Government would move for that?

5 MS. LEO: The Government so moves.

6 THE COURT: Which I grant.

7 All right. Anything you want to say on behalf
8 of your client?

9 MR. ROSA-AMBERT: Yes, Your Honor. I don't want to
10 belabor what I stated in my - on both the memos that I filed
11 in this case.

12 THE COURT: Yeah. I did read and re-read - I got
13 ready last time - and then, I re-read your lengthy memo, the
14 Government's lengthy response, your lengthy reply that I think
15 came in yesterday.

16 And I've read all the attachments; I've read the
17 initial information on the victims who - who filed victim
18 impact statements. And I've read the psychological reports as
19 well on your client.

20 MR. ROSA-AMBERT: Yes, Your Honor.

21 THE COURT: So, I'm familiar with all of that.

22 MR. ROSA-AMBERT: I -

23 THE COURT: And any points you want to make, though,
24 please feel free.

25 MR. ROSA-AMBERT: I would have thought by reference

1 what I stated in my memo, so I do want to say that I think
2 that this case is - that one case that is a struggle for - for
3 all of us, Your Honor.

4 Just to provide context to the Court - as the
5 Court can see, this case is from 2019.

6 THE COURT: Um-hmm.

7 MR. ROSA-AMBERT: I arrived at the Public Defender's
8 Office in late 2021. The case wasn't moving at all, and I
9 think that Ms. Leo and I did our very best to move it along
10 just because, again, it's such a difficult case to handle,
11 right.

12 THE COURT: Um-hmm.

13 MR. ROSA-AMBERT: This is that unique case where we,
14 obviously, feel sympathetic towards the victims. The facts
15 are - let's say - complex.

16 However, I think that the real question before
17 the Court is not whether the facts reflect the Guidelines that
18 were imposed in this case. We're not objecting what the
19 Guidelines are. What we are trying to convince the Court of
20 is that there are circumstances that led to this and the Court
21 should vary to give the Defendant an opportunity to come - to
22 go back to the community.

23 I do believe that Ms. Sidney is redeemable. I
24 think that the first fact that would be reflective of that is
25 that her family is here, even though this is family that now

1 takes care of one of the victims in the case.

2 Again, we're not trying to minimize what
3 happened. I do believe that they now understand and have a
4 better grasp of what she suffered through in her early years,
5 not only with she being a victim herself but also with the
6 whole mental struggles that she was enduring. We don't even
7 know that the costs of those mental health struggles were the
8 fact that she had been a victim of the past, that it's -
9 obviously remains to be seen; we just don't have the resources
10 to engage in that particular type of study.

11 But I do believe that, again, considering her
12 circumstances, considering that she was, not only once but
13 twice in a mental health institution with suicidal ideations
14 before this happened.

15 The fact that she was groomed once she was
16 assaulted as a child then groomed as a man when she was only
17 12 years old I think that I need to take objection to the
18 Government and this idea that she should have known better.
19 That's precisely the problem, Your Honor. She doesn't fully
20 understand or grasp the extent of the trauma that she
21 suffered. And there's a godzillian studies about that. I
22 don't think - and I don't want to belabor that. I think that
23 the Court is aware of that. But it's - it - I - science needs
24 to account for something.

25 THE COURT: Sure.

1 So - I guess a couple of things. I did have a
2 curiosity why this type of case has been here for four years.
3 I mean, these are normally one-year cases. The facts are
4 obvious. I mean, they catch people red-handed. Here, we had
5 a confession. The forensic report comes back pretty - I mean,
6 this one, especially, is pretty simple. Forensics would have
7 come back in a couple of months.

8 And what - I mean, you - obviously, need to get
9 a psycho-sexual evaluation, which was done.

10 It seems like - it's strange.

11 MR. ROSA-AMBERT: Again, Your Honor - but I can only
12 account for the two years that I handled the - this case,
13 which is essentially now that it's two years.

14 Before that, I think that the Pandemic had a lot
15 to do with it, the lack of access to the client. For me, it
16 took me a while to be able to talk to the client, because she
17 was so closed. She didn't have any relationship with the
18 counsel that preceded me, and that - there was a whole trust
19 that needed to be gained. But the prosecution and I were in
20 constant communication trying to resolve this.

21 THE COURT: So -

22 MR. ROSA-AMBERT: I just - I just think we're all -

23 THE COURT: Yeah. It doesn't like ya'll are on the
24 same page at all. You said, we worked together to resolve
25 this, but ya'll seem quite antagonistic.

1 MR. ROSA-AMBERT: We - we couldn't reach a resolve.

2 THE COURT: Sure.

3 MR. ROSA-AMBERT: But we were in communication is
4 what I'm trying to say.

5 THE COURT: Okay.

6 MS. LEO: Your Honor, the only thing I would just add
7 is that Mr. Rosa-Ambert is the third defense attorney on this
8 case, and back in March of 2020, right before the Pandemic -

9 THE COURT: Uh-huh.

10 MS. LEO: -- the Defendant was actually set up to
11 plead guilty when she was represented by another one of the
12 Public Defenders, John Parris. He then left. I believe there
13 was another FPD appointed, and then Mr. Rosa-Ambert.

14 THE COURT: That was some of the reason.

15 MS. LEO: So, that's -

16 THE COURT: Some of the reason.

17 Okay. So then, the other questions I have -

18 So, she was institutionalized twice.

19 MR. ROSA-AMBERT: Yes, sir.

20 THE COURT: One of your arguments is that she - this
21 was untreated. But if she's in a mental health institution,
22 why wouldn't this childhood sexual abuse that she suffered
23 come out and have been treated?

24 MR. ROSA-AMBERT: I - I think that the real answer to
25 that is two-fold, Your Honor.

1 One is that victims struggle a lot divulging
2 what happened, even with treatment. When she went to those -
3 to those institutions was for medical emergencies and they
4 treated for that, like they treat her there for suicidal
5 ideations.

6 I will also point to the fact that she admitted
7 or she divulged the fact that she was sexually assaulted twice
8 as a child before I got the case. That's information that I
9 received. And it was not something that was developed through
10 the psychological evaluation. This is information that she
11 gave to her mom in 2019 when they started communicating after
12 she was detained.

13 So, I think that the main reason why that
14 information is not necessarily included in those
15 institutionalizations is because, again, they treat her for
16 the symptoms she comes announcing or which, again, were
17 suicidal ideations.

18 THE COURT: Okay.

19 Just - yeah, there's a pattern to these cases.
20 It seems like many of them soon after they've been arrested
21 and they're facing these enormous consequences that they
22 reveal, oh, I was sexually abused as a child. And here, she
23 had many opportunities along the way -

24 I mean, when she's 12 years old, usually by then
25 they're old enough to cry out to mom or a counselor about what

1 happened. But then, again, she had these other periods in her
2 life where she was getting mental health treatment. If this
3 was - this problem that she had been carrying - this had such
4 an enormous weight on her that that would have come out in one
5 of these institutionalizations, just -

6 MR. ROSA-AMBERT: Again, I think, Your Honor - I
7 don't want to be a methodical -

8 THE COURT: Yeah.

9 MR. ROSA-AMBERT: But I think experience to me,
10 specifically, has shown me otherwise.

11 My dad committed suicide when I was 21, and I
12 lived with him all my life, and I wasn't aware that he had
13 mental health problems until after he committed suicide. And
14 this - this is not someone that I see infrequently.

15 THE COURT: Right.

16 MR. ROSA-AMBERT: This is a person that I interacted
17 with on a daily basis, and I was led to believe that he just
18 had anger-management issues, which obviously, was a gross -

19 THE COURT: Sure.

20 MR. ROSA-AMBERT: -- mis-understating of - of the
21 gravity of the problem. It's really difficult to say when a
22 victim or someone that is having mental health problems will
23 actually come out and say, that there's a lot of more recent
24 studies - especially from - there's a new institute in Harvard
25 that deals with the intersection of the brain on the law,

1 saying that there are portions of the brain that are triggered
2 in certain circumstances, specifically in child pornography
3 cases. They're still - they're still trying to figure out
4 why.

5 But right now, you want me to answer a question
6 that - as to why she didn't divulge that before; I don't know.

7 THE COURT: Only because she was in a setting that
8 called for that. At least twice she was in a setting.

9 MR. ROSA-AMBERT: I fully understand that.

10 THE COURT: Yeah.

11 MR. ROSA-AMBERT: But that's why, again, I - I gave
12 the example.

13 THE COURT: Sure.

14 MR. ROSA-AMBERT: But, like, that doesn't
15 necessarily - doesn't necessarily apply in practice. When we
16 take into the field, into actual human interactions it doesn't
17 necessarily apply that way.

18 I do believe that the more important pointer
19 would be the fact that she not - that she did not divulge it
20 to the people at the jail. She told her mom.

21 THE COURT: Uh-huh.

22 MR. ROSA-AMBERT: So, this - this was not trying to,
23 again - if - I - I wouldn't understand the Court's concern if
24 she had just said this for the first time when she got into a
25 psychological evaluation, but that was not the case when she

1 was arrested. And she started to - let's say - rebuild her
2 relationship with her mother was when she told her, yes, mom,
3 I did this horrible thing. I'm really apologetic for it.
4 However, these are my circumstances.

5 The other factor that I wanted, again, to
6 highlight to the Court is - I - I tried to provide the Court
7 some contents - some context as to the national trends of -

8 THE COURT: Sure.

9 MR. ROSA-AMBERT: -- sentencing in these type of
10 cases saying, and this is our unicorn. We get very few female
11 CP cases, much less with the circumstances of something here.

12 Again, I've been in this office for two and a
13 half years. Before that, I was in Puerto Rico for - 13? And
14 this is the first female CP case I've ever had.

15 So, that's why I wanted to highlight the fact
16 that these are so unique. There's only been 74 in the nation
17 in the last five years. Out of those, the average sentence
18 has been 297 months of imprisonment, with the same sort of -
19 sort of circumstances that the victim has -- had control
20 ov- -- I'm sorry that the Defendant had control over the
21 victim, that -

22 THE COURT: And traded the porn -

23 MR. ROSA-AMBERT: Yes.

24 THE COURT: -- and then distributed it.

25 MR. ROSA-AMBERT: Created - distributed, same set of

1 facts.

2 THE COURT: Sure.

3 MR. ROSA-AMBERT: Those facts are included in my
4 memo.

5 And even if we remove the gender fact out of the
6 equation, the 779 total CP defendants that had been sentenced
7 on these same set of circumstances the average sentence for
8 those has been 360 months of imprisonment.

9 The ones that have been sentenced for life have
10 either - have other prior criminal history or have monetized
11 this CP that they created. That was definitely not the case
12 here.

13 And again, concerning the fact that she had a
14 lot of mental health history, that she had also controlled
15 substances, abuse problems. She mentioned and she described,
16 and - when she used certain drugs she felt invincible was the
17 quote that she used, that she had this proclivity towards
18 being influenced by older males. And as you read from the
19 report, she started producing this when some males in that Kik
20 chat started telling her that this was okay, that it was -
21 this was common place. We, obviously, know that that's not
22 the case, and she understand that - understands that now.

23 But in order for her to fully comply with her
24 debt to society, she will need treatment. She will need
25 conditions, and there's going to be a point where she's not

1 going to get those while at BOP. So, the question before the
2 Court is that are we imposing punishment solely on the facts
3 of the case and we're being punitive - I don't want to say for
4 the sake of it - but at some point we do believe that she will
5 definitely be redeemable.

6 And I - I am concerned that the Government's
7 suggesting that a sentence of 60 months would be lenient.
8 That's not the fact of -

9 THE COURT: Sixty years.

10 MR. ROSA-AMBERT: Sixty years.

11 THE COURT: Yeah.

12 MR. ROSA-AMBERT: It's not the fact to life sentence,
13 Your Honor. She's about to turn 30.

14 THE COURT: Uh-huh.

15 MR. ROSA-AMBERT: So, let's say that she gets all the
16 full credit -

17 THE COURT: Free her - sure.

18 MR. ROSA-AMBERT: She's going to be 82 by the time
19 she comes out. So, that - that would be my main concern.
20 I - I do understand that the Court needs to impose a heavy
21 sentence -

22 THE COURT: Sure.

23 Let me - on that line, let me just ask a few
24 questions to Ms. Leo.

25 So - I guess first of all why did you plead

1 her - why did she plead to four or five Counts as opposed to
2 just one? Was it the desire of the Government to - to request
3 stacking? Is that, basically, what it came down to?

4 MS. LEO: No, Your Honor.

5 She pled guilty - actually, both Defense counsel
6 and I spoke about her pleading guilty to a plea agreement or
7 to her pleading straight up, and it was her choice to plead
8 straight up.

9 In regards to the case, if she would have pled
10 guilty to a plea agreement, we would have probably dropped the
11 receipt charge or the possession charge. I don't recall off
12 the top of my head.

13 THE COURT: Uh-huh.

14 MS. LEO: But she would have pled guilty to, for
15 sure, the production -

16 THE COURT: Right.

17 MS. LEO: -- and the distribution and more than
18 likely probably the possession. So, again, we would have been
19 still -

20 THE COURT: Able to stack them still -

21 MS. LEO: Yes, Your Honor.

22 THE COURT: -- to this point?

23 Okay. Okay.

24 MR. ROSA-AMBERT: Yes. Yes, Your Honor.

25 THE COURT: But that's - that was the reason why she

1 pled to more than one Count was because ya'll wanted - ya'll
2 knew that you - there was going to be stacking?

3 MS. LEO: In most of our cases, they plead to more
4 than one Count.

5 THE COURT: Okay.

6 MS. LEO: So, that's the general practice if the
7 conduct fits -

8 THE COURT: Sure.

9 MS. LEO: -- it, then, that's what we - we offer in a
10 plea agreement.

11 THE COURT: Okay.

12 MR. ROSA-AMBERT: Yes, Your Honor, we - there were -
13 the sentence to plea -

14 THE COURT: Let me - I have one more question for
15 Ms. Leo.

16 MR. ROSA-AMBERT: Yeah.

17 THE COURT: So, the - I guess the most egregious
18 offense, a conviction has a 360-month max. Isn't that what
19 Congress decided was the stiffest sentence that should be
20 given for this type of offense?

21 MS. LEO: Your Honor, what the Defendant actually
22 pled guilty to as far as the production - she was only charged
23 with one Count of production for the two-year-old child, minor
24 Victim No. 1.

25 THE COURT: Uh-huh.

1 MS. LEO: There was also a second victim.

2 THE COURT: Right.

3 MS. LEO: So, the Government did not charge her with
4 that second victim, which would have been an additional 30
5 years that the Court then could have used to stack as well.
6 So, as far as the statutory max, yes, that is the statutory
7 max on just a straight-up production case.

8 Here, this is different. This is not just a
9 straight-up production case. We have two victims, and we have
10 this occurring at multiple times. Because technically, we
11 could have charged the Defendant with each and every time she
12 produced -

13 THE COURT: Of course.

14 MS. LEO: -- a video.

15 THE COURT: Sure.

16 MS. LEO: And she did that, I believe, and 19 times -
17 she produced 19 videos, and I believe, 17 images of her abuse
18 of -

19 THE COURT: MV 1.

20 MS. LEO: -- the two-year-old, of MV 1. And then she
21 produced, I believe, two images of MV 2. And so - who was
22 three at the time.

23 THE COURT: Sure.

24 MS. LEO: So, as far as being a statutory maximum,
25 yes, that is 30 years. But that can also be in different

1 circumstances.

2 Here, especially as minor Victim No. 1, there
3 were sex acts that were being performed. There was fondling;
4 there was oral sex. It wasn't just lewd and lascivious. So,
5 looking at it, Your Honor, that's why the Government believes
6 that a sentence of over the 30 years would be appropriate
7 because of the various conduct, plus she didn't just
8 memorialize her abuse of both minor Victim 1 and 2. She went
9 ahead and distributed that abuse, and she uploaded it. And at
10 least one time that we know of to a Kik chat group she
11 distributed three of the videos. And we know that those
12 videos will live on forever. So, the conduct is not just her
13 recording her sexual abuse it's also the distribution of that
14 abuse to other individuals. And who knows if they pass it on
15 to other individuals.

16 THE COURT: Probably.

17 MS. LEO: We don't know. We just know that it's out
18 there forever.

19 THE COURT: Sure.

20 The temporal length of this production - I was
21 trying to figure out, well, when was it - because they seek -
22 they acted very quickly in arresting her, but then when they
23 did the forensics on her it went back - I was trying to figure
24 out, well, how temporal -

25 MS. LEO: I believe - I believe it went back about

1 six months.

2 Now, her - her statement to law enforcement I
3 believe she says she's being doing this for about a year. She
4 also tells that to Dr. Hays (phonetic) in the psycho -

5 THE COURT: Sure.

6 MS. LEO: -- psychological evaluation. And when
7 she's discussing this with the individuals on Kik, she says
8 she's been doing this for about a year, that it took about a
9 year for her to be able to warm up to get her son to engage in
10 these types of activities.

11 THE COURT: Okay.

12 And - okay. So, you have answered those
13 questions.

14 Her - I found kind of disturbing is the report
15 from the psychologist, who, in particular page 13 - this is
16 sort of what I look for in these reports is likely propensity
17 to reoffend, and he gave her a pretty high propensity to
18 reoffend.

19 Let me see. It was on page -

20 MR. ROSA-AMBERT: It was moderate to high, Your
21 Honor.

22 THE COURT: Page 13 shows likelihood of pedophilia
23 recidivism is my note.

24 Let's see.

25 There's also a pedo- -- where she revealed the

1 presence of pedophilic interest that provided the basis for a
2 violation of appropriate sexual boundaries with her young son.
3 She recalled feeling sexual attraction towards a toddler when
4 her mother babysit, and her friend was around 10 years old.
5 She believes her pedophiliac interests have always been
6 present, and speculates that she might have been sexually
7 abused as a toddler. But there was no evidence of such abuse
8 at the time of the present evaluation. Her pedophiliac
9 interest do not appear to be fixed, meaning her sexual
10 interest is not exclusive with children. She also has sexual
11 attraction towards adults, but research has shown that sexual
12 interest in children is a strong predictor of sexual
13 recidivism.

14 I guess that's - so, he's saying she continues
15 to have pedophiliac sexual interests and that that's a strong
16 predictor of sexual recidivism.

17 MR. ROSA-AMBERT: I fully understand that, Your
18 Honor. And as I addressed in my memo, there are two factors
19 that the Court needs to consider.

20 One, she remains untreated as to that. There's
21 a whole system in place at BOP to avoid - or to lessen that
22 risk -

23 THE COURT: Sure.

24 MR. ROSA-AMBERT: -- of recidivism.

25 The other factor that the Court needs to

1 consider is her age when - whatever sentence the Court
2 imposes, she's not - definitely not going to be in her
3 twenties; her sexual drive is not going to be the same.

4 THE COURT: Well, I have CP cases with 70-year-old
5 men.

6 MR. ROSA-AMBERT: I - I understand that, Your Honor.

7 THE COURT: At least I've had one that I can think of
8 off the top of my head.

9 MR. ROSA-AMBERT: There's a lower risk of recidivism
10 in women, too, so that's also a factor, right? They - they
11 don't have the power to, like, promote or continue in this
12 type of conduct like normally men would.

13 So, I - I think that the risk of recidivism can
14 be tender or treated by, again, BOP's institutionalization and
15 the treatment that they provide for her, and they will also
16 make sure to inform the Court as to whether she complies with
17 that treatment or not and whether they do believe that the
18 risk has lowered.

19 Moreover, the Court can put stricter conditions
20 because at the end of the day, Your Honor, her family's here
21 but, obviously, the two victims that she interacted with will
22 never, ever, ever have a contact with her anymore.

23 And I think - again, I'm not making light of
24 what happened. I have never tried to live in this case but
25 the fact that she will never have contact with her son is a

1 very, very harsh punishment that she brought on herself. I'm
2 not disputing that. But she won't have access to the victims
3 anymore, and I think that should give the Court some solace as
4 to whether she will re-offend in the future.

5 THE COURT: Well, I mean, she may or may not. I
6 mean, sometimes, you know, for the sake of the victim it may
7 be as cathartic that they have a confrontation or a discussion
8 with the perpetrator. I mean, I always permit - well, I
9 generally, no contact with any of the victims, but a family
10 member, since I had a recent mother with her create - a very
11 similar case to this - create CP with her daughter and a
12 boyfriend of the mom's, but I permitted with the consent of
13 the Court's contact, which is probably what I'll do here.

14 But again, back to my point, it seemed to me
15 that the author was very concerned about her propensity to
16 recidivate, because she continues to have sexual thoughts
17 about children. So, that's something that can be treated so
18 that she can be taught not to act on those, but she still -
19 it's who she is. Her sexual orientation is what it is. And
20 that can't be treated out of her.

21 MR. ROSA-AMBERT: But the risk can be lowered, Your
22 Honor.

23 THE COURT: Uh-huh.

24 MR. ROSA-AMBERT: I - I think that that's the
25 question before the Court, whether that risk of re-offending

1 will lower with age and with treatment. And I think that
2 there is information on the record to show that the answer is,
3 yes, I think that - again, I had this case for two and a half
4 years. She's way more reflective of the circumstances that
5 she faces now than she was before.

6 The mere fact that she acknowledged that she has
7 those interests would not have happened in 2019. I think that
8 the fact that she is more than willing to go through the
9 process and acknowledge that she has a problem, seek
10 treatment, be able to talk about what happened to her as a
11 child, the fact that she was groomed by an adult, that she was
12 led to this office by other males in the Kik chat. That does
13 show a desire or an interest to do better.

14 THE COURT: Well, she was led to create, but she
15 joined -

16 MR. ROSA-AMBERT: Yes, voluntarily.

17 THE COURT: -- on her own.

18 MR. ROSA-AMBERT: Yes.

19 THE COURT: She already had her -

20 MR. ROSA-AMBERT: Yes.

21 THE COURT: -- again, this pedophilic interests. And
22 according to the psychiatrist, she's had those pedophilic
23 interests since she was 10 years old. It's just who she is.
24 It's her sexual orientation. Anyway that was a concern of
25 mine.

1 I keep asking the questions. I don't mean to
2 throw you off what you wanted say. If there's anything you
3 want to address. These were just concerns that the Court has
4 that I wanted to express so that you could make sure you
5 addressed them, but if there's anything else -

6 MR. ROSA-AMBERT: I think that the Court read my
7 memos -

8 THE COURT: Yes.

9 MR. ROSA-AMBERT: The Court understands my position.
10 I do not believe -

11 THE COURT: Sure.

12 MR. ROSA-AMBERT: -- this is the case where life
13 should be a sentence imposed, Your Honor. Again, the cases
14 that I found and the statistical models provided by the U. S.
15 Sentencing Commission show that the people that get life are
16 the most severe offenders with - and with more criminal
17 history.

18 THE COURT: Sure.

19 MR. ROSA-AMBERT: With prior severe criminal history
20 of a similar or akin conduct that monetize their interests.

21 For example, like the person that you recently
22 sentenced. I had the opportunity read that transcript. I -
23 I - that's why I understood the Court's questions.

24 But, again, we believe that's she's redeemable.
25 I think that the fact that her family is here means that

1 instead of hating her for what she did is reflective of that
2 fact.

3 THE COURT: Sure.

4 MR. ROSA-AMBERT: And considering her age and her
5 circumstances, again her mental health that can be treated now
6 that was not treated before, I do believe that a sentence - I
7 request 20 years would be sufficient but not greater than
8 necessary to comply with the requisites of 3553(a).

9 THE COURT: All right.

10 I'll consider that.

11 And, Ms. Sidney, you're here to speak as well
12 today. You don't have to, but if there's anything that you
13 would like to say that you want me to consider, now is your
14 chance to speak.

15 DEFENDANT SIDNEY: Yes, sir.

16 Thank you for allowing me to speak.

17 I'm not - I don't want to sit here and try to
18 make excuses or, you know, or justify anything that I did.
19 Like he said, I experienced things, and the seed was planted.
20 And while, yes, these are things that I have thought about
21 it - it's not - sorry, I have a hard time speaking in front of
22 people.

23 But it's just - I was - I was going through a
24 lot, and self-medicating and it just - it made it real easy
25 for me to, I guess, allow myself to be manipulated, but that's

1 on me. I can't - you know - nobody else did it. That's -
2 that's on me. And - but I just want people to just try to
3 understand what - where my head was at.

4 And I have had a lot of time to sit and think
5 about what I did. There's not a day that goes by that I don't
6 think about what I did. And - I can't take it back. I
7 can't - I wish I could, but I can't.

8 And I have to apologize to, you know, my son and
9 Catherine and for any of the - any trauma that - future trauma
10 that I'm going to cause or any pain that I have caused
11 anybody. It was not my intent to cause any harm or anything.
12 I -

13 Despite what the evaluation said, too, I have no
14 desire to want to repeat any of what I did. Like, I - I was
15 honest about a lot, but the desi- -- I don't have that desire
16 to do any of that.

17 I just - would like just a chance to prove that
18 I - I'm better than that, because - I'm not a - I'm not a bad
19 person. I'm not a person that's going to go around picking
20 kids - I'm not - like, that's not me. I'm not going to do
21 that. And I just - I just would like just a chance to prove
22 that - that I could just be better.

23 THE COURT: I mean, there were two victims here. So,
24 it's almost like, yes, you did go out and pick another kid.
25 That just happened to be a relative. Generally, the victims

1 are well-known or the child of a lover or the child - you,
2 know, the biological child of the perpetrator. Here, was a
3 child of a relative that was victimized. So, I see that as
4 you did go out -

5 DEFENDANT SIDNEY: I di- --

6 THE COURT: -- and prey on another child.

7 DEFENDANT SIDNEY: I did.

8 THE COURT: And - and that's why one of your
9 restrictions is going to be you're never going to be allowed
10 around children.

11 You have this sexual desire. It's - it's your
12 orientation. It's who you are, and you - you know, when
13 you're on drugs, you're self-medicating, your judgment's poor,
14 and you could act out on that. And that's - that's the worry
15 is - when you're here, you're sober. You're thinking
16 rationally. You know this is something you shouldn't be
17 doing. But the worries you're going to be - in a moment a
18 weakness that you might act out on - on your sexual
19 orientation is a concern on the Court.

20 And I didn't mean to cut you off. If I - if I
21 did, I didn't mean to.

22 I did want to add that - you know - one of the
23 Government's positions here - and I don't know if you've been
24 permitted to read their responses - but - is that if you were
25 a victim of sexual abuse then you were - you would be aware of

1 the trauma, the lifetime of trauma that it's going to have
2 on- on your victims and that - and that was something,
3 obviously, you just didn't consider at the time is what effect
4 this would have.

5 I mean, I know you're apologizing to them now,
6 but it will have an effect on them the rest of their lives,
7 especially to MV 1, whose - these videos are out on the
8 internet, so no doubt being distributed and traded amongst
9 these traffickers.

10 Sorry, I didn't mean to cut you off.

11 DEFENDANT SIDNEY: No, you're fine.

12 THE COURT: Go ahead if there's anything more you
13 want to say, and then, the Government's going to get to weigh
14 in.

15 DEFENDANT SIDNEY: No, I'm through.

16 THE COURT: Okay.

17 Yeah, I wanted to look quickly - there were a
18 number of - not a lot but there were at least a few large
19 victims series that requested restitution. So, I need to
20 ad- -- I need to address that. I'm trying to - I think I just
21 saw three - yes, one, two, three. Okay.

22 MS. LEO: I believe, Your Honor, there are seven
23 victims that are seeking restitution.

24 THE COURT: Seven?

25 So, the PSI ha- -- at paragraph 106 only listed

1 three, and in the attachments I thought I only saw two, maybe
2 three. Six -

3 MS. LEO: Sorry, Your Honor, six. I can't count.

4 THE COURT: Six?

5 MS. LEO: Yes, Your Honor.

6 THE COURT: Is Mr. Garcia here, the author of this
7 Presentence -

8 MR. ROSA-AMBERT: Mr. Garcia is no longer at the
9 USPO.

10 THE COURT: Oh, wow. This is that old?

11 So, who's covering for him?

12 PROBATION OFFICER: Your Honor, Jennifer Franklin
13 with the U. S. Probation. I have been reassigned to this
14 case.

15 THE COURT: And I only have three documented in the
16 Presentence Reports.

17 PROBATION OFFICER: There was - there were three
18 documented in the Presentence Report, and then, there were
19 three additional ones -

20 THE COURT: Okay.

21 PROBATION OFFICER: -- that were mentioned in the
22 third addendum.

23 THE COURT: Okay.

24 PROBATION OFFICER: So, we have a total of six
25 victims.

1 THE COURT: Okay.

2 PROBATION OFFICER: And that new total restitution
3 amount is available in that third addendum.

4 THE COURT: Okay.

5 All right. So, Ms. Leo, the Government gets to
6 speak last. I know you've answered a number of my questions.
7 I've read your memo - actually, before I let you have the
8 floor, I do have some questions.

9 Obviously, there are a number of citations to -
10 a bunch of Houston cases of sentences that were, basically,
11 720 months or more, one of them a 1,000 months, had a one-
12 sentence on - that one was pretty egregious and it went to
13 trial. And - but I couldn't really tell much about the 720-
14 month sentence. It seems like there were a bunch of those.

15 I assume there were others that were a lot
16 less -

17 MS. LEO: Yes, Your Honor.

18 THE COURT: You can just pick the ones that were the
19 most.

20 And is there - I don't know anything about those
21 cases. I can't compare - to me every case is unique, but I
22 was sort of curious why you felt that was important for me to
23 know. I assume it's these - they were similar?

24 MS. LEO: Yes, Your Honor. They were similar in
25 nature. I know Defense counsel brought up that in other types

1 of cases where defendants received really lengthy sentences
2 it's because the child pornography was monetized or something
3 of that sort, and in these particular cases they weren't. And
4 most of these cases are ones that I prosecuted or Ms. Zapp
5 prosecuted. So, we're very familiar with the facts of them.

6 And they're cases that are similarly situated
7 where we have a Defendant who raped and abused a family member
8 and then either - and then, not all these cases did they go
9 ahead and distribute them, but in a good number of them, the
10 images had been distributed.

11 So, we just wanted to show to the Court, to
12 highlight to the Court in response to the Defense's argument
13 that nationally these cases are always - a lot of courts will
14 downwardly depart. And so, it's our position that maybe that
15 does happen, but here within our District that doesn't happen,
16 that there are Guideline sentences that are imposed, which are
17 very lengthy, which are 60 years, 80 years, and then that one
18 particular case over a 1,000 years. But, again, that's a
19 little different because it was a trial.

20 THE COURT: So - I mean, I have sentenced - if you
21 were reading that transcript, I've sentenced a life sentence -

22 MR. ROSA-AMBERT: A life sentence.

23 THE COURT: -- to one.

24 MR. ROSA-AMBERT: Yes.

25 THE COURT: But then I downward departed on the other

1 to 20 years, I think.

2 MR. ROSA-AMBERT: Yes, Your Honor.

3 You did.

4 I think that the other concern that I had with -
5 as the Court mentioned, they highlighted seven - eight cases
6 to be precise, which would definitely support their position.
7 However, I wanted the Court to be aware that the sentencing
8 transnationally in total of the whole CP -

9 THE COURT: Sure.

10 MR. ROSA-AMBERT: -- sentences it's not reflective of
11 those eight cases. So, I think that the question before the
12 Court is what is more beneficial to the party understanding of
13 the Court those eight cases that the Government is
14 highlighting, because they propose the idea that punishment
15 will in turn be a deterrent or national trend since 2021
16 because we have - we now have the benefit of that U. S.
17 Sentencing Commission Report saying that the Guidelines are
18 plainly wrong. There's no other way to describe it. They -
19 they say that the Guidelines do not reflect the idea when they
20 were originally instituted.

21 So, I - again, I think that the most accurate
22 number would be those 74 women that were sentenced on
23 identical circumstances; that information comes from the
24 Sentencing Commission, Your Honor. Those are not the
25 statistics that I brought up for the sake of it. That's

1 something that anyone from the public can do if they have
2 access and a little bit of knowledge as to how to use the
3 gauging tool.

4 THE COURT: Sure.

5 And that was - that was about two hundred and
6 seventy something?

7 MR. ROSA-AMBERT: 297 was the average sentence.

8 THE COURT: 297, sure.

9 MR. ROSA-AMBERT: And nationally, for a total
10 population of not only women - man and women in total is 360,
11 which is definitely way less than the - what the Government is
12 requesting -

13 THE COURT: Sure.

14 MR. ROSA-AMBERT: -- or proposing.

15 THE COURT: Sure.

16 Again, I've sentenced less and more, and, you
17 know, I have a life sentence I gave to a CP.

18 And - but then, you know, you have the 19 year-
19 old whose got a cellphone, you know, with - that happens to
20 have child porn on it, you know, what do you do with that?
21 They use a computer. You know, and all the - all the
22 enhancements that are in these cases, you know, it gets hidden
23 to the 19 year-old kid, so there are reasons to vary in cases.

24 Again, that last case that you've read about -
25 or the transcript of - I felt there were significant reasons

1 why I should vary downward further, female.

2 MR. ROSA-AMBERT: In this particular case, Your
3 Honor, if I may, there are 10 enhancement points that would
4 essentially apply in every single case. I detailed those out.
5 So, what's the difference between this case and a person that
6 again monetized the offense or went to trial or had a higher
7 criminal history. For purposes of the Guidelines, it doesn't
8 matter because the level is 43, so that's mandatory life
9 whether the defendant is Category 1 or Category 6. So, that's
10 why I wanted to create that distinction in my memo.

11 THE COURT: Right.

12 But, I mean, I will also say the Sentencing
13 Commission has examined and re-examined these CP Guidelines.
14 This has been a topic of discussion for five, ten years. I
15 mean, for the years I've attended their annual seminar and
16 based - you know, the Commissioners have struggled with it.
17 There's a lot of Congressional pressure, I guess, to keep them
18 where they are, and it is - they are what they are because of
19 the belief. And I think in Congress that these are
20 appropriate.

21 And you have - and then, the Government cited
22 some discussions of our Congressmen or Senators when they - I
23 guess they were Senators when this act was adopted, so -
24 Anyway - all right, so. So that -

25 You answered my question, Ms. Leo, about these

1 other cases. Some of them are similar - or maybe a lot of
2 them are similar. The outlier went to trial and lost. It
3 seemed like a lot of them were - or all of them were males -
4 and that they were - and that they all themselves engaged in
5 sexual acts with their children. And - but we have here a
6 female engaging in sexual acts with her child, and it's no
7 difference.

8 So - and again, this - I'll let you speak.
9 I'll let you have the floor -

10 MS. LEO: Your Honor?

11 THE COURT: -- and then, I can make some summary
12 comments.

13 MS. LEO: Let me just ask - does the Court wish to
14 hear from the victim's mother?

15 THE COURT: Yeah. I will. I was going to let you
16 speak -

17 MS. LEO: Oh. Okay.

18 THE COURT: -- and then I was going to hear from -

19 MS. LEO: Perfect.

20 THE COURT: Because there may be some response, but I
21 was going to let you speak.

22 MS. LEO: Okay.

23 THE COURT: And then, I'll have the - does she - have
24 you ever talked to her. Does she want to allocute?

25 MS. LEO: Yes, Your Honor.

1 THE COURT: Okay.

2 Go ahead. I'll let you speak first.

3 MS. LEO: Yes, Your Honor.

4 Your Honor, as the Court is aware of my
5 Sentencing Memorandum, the Government is requesting 60 years
6 in regards to this particular case. We believe that it's
7 appropriate under the 3353(a) factors.

8 The Court has already gone into the report that
9 was submitted on behalf of the Defendant, Dr. Hays' report.
10 And I think that that is what is most troubling for the
11 Government was reading that report, because that report just
12 highlights how much of a danger the Defendant is to the
13 community because she has this sexual interest in children.
14 And that sexual interest in children cannot be pertur- --
15 cannot be curved in any way, shape or form.

16 Your Honor, first and foremost, as the Court
17 already brought up, the Defendant admitted that she has had a
18 sexual interest in children since she was 10 years old. So,
19 that's more than half of her life she has been sexually
20 attracted to children. And that was in a setting, not that
21 she was attracted to another 10 year-old, but she was
22 attracted to a baby that her mother was babysitting.

23 Further, as the Court is aware and as the report
24 indicates, she fantasizes about having sex with babies and
25 toddlers. She fantasizes about having sex with children

1 between the age of four and seven. She also dreams about
2 having sex with babies and toddlers and children.

3 So, this is someone who - it's as the Court
4 brought out - it's her orientation. It's something that she
5 is going to have to live with forever. And because of that
6 orientation and because of the fact that we know she's not
7 just looking at child pornography, but she's actually acting
8 out - she's crossed that line. And she's abused not one child
9 but two - two children who are very young - a two-year-old and
10 a three-year-old. And this happened on multiple times,
11 especially with the two-year-old.

12 The other thing is, Your Honor, we don't know
13 what else she has done to these children, other than what she
14 recorded herself doing to them, because they're too young to
15 outcry. Maybe in the future they will remember what happened.
16 Hopefully, they won't. Hopefully, this will not have affected
17 them. But the fact of the matter is she traumatized, and she
18 harmed these children and all for what -- her own sexual
19 deviance.

20 Your Honor, as her job, her number one job
21 should have been to protect and care for minor Victim 1, but
22 she did the exact opposite when she used him, essentially, as
23 a sex toy, and that's something that cannot be tolerated.

24 And, Your Honor, the other thing is, what is
25 especially disturbing and the Court referenced this in regards

1 to the doctor's opinion about her to being a moderate to high
2 risk to re-offend. It's not just solely on children. It's on
3 the community at large. And what's interesting is the
4 Defendant admitted to the doctor that she has had three
5 infractions while she's been in - in custody pending this
6 case, and two of them were in regards to drugs. And this,
7 Your Honor, is on page 3 and 4 of the report.

8 But the third infraction deals with a write up
9 that she had received from a miscommunication with a cellmate,
10 who ended up submitting a Prison Rape Elimination Act Report
11 against her, claiming that the Defendant was being sexually
12 inappropriate and undressing in front of her, which the
13 Defendant denied doing. But still, she was written up for
14 that.

15 The other thing that is very disturbing is that
16 to this day - and this is on page 7 - she talks about her
17 viewing herself as a sex addict and that she's constantly
18 thinking about sex and that she has stated that intrusive
19 thoughts about sex have persisted during her incarceration,
20 although she has not acted upon it.

21 So, this is someone clearly who is dangerous,
22 who is a sexual deviant, and the only way to protect the
23 public-at-large is for a lengthy term of incarceration, and
24 that's why the Government is asking for the 60 years. We
25 believe that it's warranted under these - under the situation

1 and under the 3553(a) factors.

2 The other thing that Defense brought up was
3 arguing for a 20-year sentence, and I know he - Defense
4 counsel is arguing that in 20 years she'll be in her mid-
5 forties. She'll be maybe hitting menopause. Your Honor, for
6 someone like the Defendant -

7 First off, there is many things wrong with that
8 argument first off that someone would be in menopause at 45,
9 but secondly, that anyone in menopause wouldn't have a sexual
10 interest in children or be able to act upon it.

11 But the last and most important thing in - in
12 regards to this particular Defendant - because of the way that
13 she has had this deep-seated sexual interest, it's not going
14 to stop her. The only way to stop her and to protect the
15 public is a lengthy term of incarceration, and that's why,
16 Your Honor, the Government is recommending and requesting that
17 a 60-year sentence would be appropriate in this case. It
18 would be appropriate to reflect the seriousness of the
19 offense, to promote respect for the law, to provide just
20 punishment for the offense and, especially, to protect the
21 public. So, that's why we're asking for the 60 years.

22 THE COURT: Sure.

23 MS. LEO: Thank you.

24 THE COURT: All right.

25 And - so, we have a victim or a parent of a

1 victim here to allocute?

2 MS. LEO: Yes, Your Honor.

3 THE COURT: So, ma'am. I guess I'm not going to have
4 you state your name. We'll just all recognize that you're the
5 parent of minor MV 2, as the person is identified in the
6 Presentence Report just to protect the identity of the victim.

7 So, you get to speak here on, really, anything -
8 how relevant, how it's impacted the child, how it's impacted
9 the family dynamic, what your - in other ways that, you know,
10 your relationships within your family and others, how it's
11 affected you.

12 So, you have the floor.

13 A PARENT: Thank you for allowing me to speak today.

14 THE COURT: Sure.

15 A PARENT: You know, this has really been, you know,
16 difficult to deal with, just because of the fact that I
17 trusted you to care for my child. And, you know, I look at
18 her every day, and I don't trust anybody around my baby, no
19 one - not my father, not my mother, no one.

20 And I'm thankful that, you know, she doesn't
21 really remember anything. She's bright. She's beautiful.
22 She's very educated.

23 THE COURT: About seven -

24 A PARENT: But I really don't know what she's really
25 going to deal with in the future when she gets older, because

1 I really don't know what you really did on those days that she
2 was with you. And she was with you for more than 8, 10 hours
3 a day. And again, you only got caught on what you were doing.

4 I forgive you, but I will never forget. And I
5 hope that - not really that - that you learn from it, because
6 it's, like, it's something that you have, it's something that
7 you want, but I can - I really don't -

8 THE COURT: So, I have a few questions -

9 A PARENT: Yes.

10 THE COURT: -- that weren't part of the factual
11 summary.

12 So, the Defendant here, Ms. Sidney, is, loosely,
13 a sister-in-law?

14 A PARENT: Yes.

15 THE COURT: Okay.

16 And she - I guess you used her for child care
17 for your child?

18 A PARENT: So, her mother would watch my daughter,
19 and I guess on the days that her mother would have to work
20 Sidney would watch her. And so - and it's crazy, because I
21 would think about the times when I would drop off my daughter
22 she would cry. She would cry. And I'm, like, man, what's -
23 what's going on? And I'm, like, okay, maybe because she's new
24 to being around her, you know. But now, I'm thinking she was
25 crying for help, and I was ignoring that, not knowing that you

1 were doing something to her.

2 THE COURT: And over what period of time was she -
3 were you having her drop off the - for a year, two months?

4 A PARENT: So, I would be at work at least by 6:30
5 and get off by four, so -

6 THE COURT: Did this -

7 A PARENT: -- eight or nine hours.

8 THE COURT: Did this go on for three months, six
9 months, a year -

10 A PARENT: Uh- --

11 THE COURT: -- two years?

12 A PARENT: I think she watched her - they were
13 watching her for at least about six months, not that long.

14 THE COURT: And were there other children there
15 besides -

16 A PARENT: My daughter would get dropped off, and
17 sometimes my son would get dropped off as well.

18 THE COURT: And -

19 A PARENT: So, I'm not even sure if anything happened
20 to my son at this point.

21 THE COURT: And -

22 A PARENT: And he was three - no, he was four, and
23 she was three.

24 THE COURT: A year older then. Okay.

25 A PARENT: So, she really had three kids in her

1 possession.

2 THE COURT: Okay.

3 And so, this happened about four years ago. So,
4 they're in grade school now?

5 A PARENT: Yes, sir.

6 THE COURT: They - and you said, "smart," so
7 they're -

8 A PARENT: G- --

9 THE COURT: -- academically -

10 A PARENT: GT kids.

11 THE COURT: Doing what they should be doing?

12 A PARENT: Doing great.

13 I did speak to my daughter - you know, she
14 doesn't remember certain things, but again, I don't know what
15 she internally knows or remembers deep down inside. And the
16 thing is, this is forever going to be out there.

17 THE COURT: So, it's Sidney's mother that now has
18 her - MV 1?

19 MR. ROSA-AMBERT: Yes, sir.

20 THE COURT: Okay.

21 And do you have any interaction with that child?

22 A PARENT: No. I do - I know he - he - he's not able
23 to speak. He cannot talk, so. That's another thing.

24 You're - you had a child -

25 THE COURT: That's a physical - a genetic de- --

1 birth defect or something, or he's - he's mute?

2 MR. ROSA-AMBERT: He has autism, Your Honor.

3 THE COURT: Autism.

4 MR. ROSA-AMBERG: But that was before, obviously.

5 THE COURT: Sure.

6 A PARENT: I mean, I don't have anything else to say.

7 I just, you know, want you to know I hope that, you know, I
8 get justice, not only for my child, but for your son as well.

9 THE COURT: Wow. I didn't catch that. Was that in
10 the Presentence Report? I totally missed that the child was
11 autistic.

12 MS. LEO: It's actually in one of the letters that
13 the Defense had submitted.

14 THE COURT: Okay.

15 MS. LEO: I think from the Defendant's mother who
16 wrote about taking care of him and him being autistic.

17 THE COURT: Okay.

18 All right. So - I mean, you've answered my
19 questions. I'm sorry for all of this for you and your family
20 and your children.

21 Hopefully, someday, your children are - or your
22 daughter is experiencing - or I'm sorry - your son is
23 experiencing problems - I'm sorry - your daughter - excuse
24 me - that, you know, you'll - you won't ignore it. You know,
25 you'll get them counseling and help.

1 A PARENT: Yes, sir.

2 THE COURT: All right.

3 Thank you very much.

4 A PARENT: Thank you.

5 THE COURT: You may be seated.

6 All right. And the grandmother is not here.

7 MS. LEO: No, Your Honor.

8 THE COURT: Okay.

9 MR. ROSA-AMBERT: Your Honor, but grand- --

10 THE COURT: You were making some notes. You want to
11 reply?

12 MR. ROSA-AMEERT: Grandfather is here. He's over my
13 left shoulder.

14 THE COURT: Okay.

15 MR. ROSA-AMBERT: They don't live together. Also, is
16 the stepmother, Ms. Elexis' stepmother is here and her
17 grandmother, her own grandmother. So, it would be that great
18 grandmother of the - of MV 1.

19 THE COURT: Okay.

20 Did you want to respond to anything?

21 I mean, you did in our reply brief, but you
22 looked like you were jotting down some things, like maybe you
23 were going to correct something that Ms. Leo said. No?

24 MR. ROSA-AMBERT: I - I think that the problem that I
25 have with the Government's position, Your Honor, is, one,

1 they're asking the Court just to focus on the nature and
2 characteristics of the offense and just outright forget about
3 the whole set of all the 3553(a) factors.

4 Like, the other issue or the other problem that
5 I have with this whole idea is that the Government doesn't
6 seem to believe that their own treatment in BOP would work.
7 Right? We just don't know that. The rest is pure
8 speculation. But we know that because of this - of her age
9 she has the opportunity to be redeemable, Your Honor.

10 THE COURT: Yeah, I don't know if it works. I do
11 know I have had a case where he was - he went to jail for
12 sexual assault of a minor, spent 20 years in state prison,
13 came out - again, this is a gentleman that looks to be about
14 70 years old - and then engaged in the production and
15 distribution of child pornography. And so, I don't know what
16 kind of treatment there is, but obviously for him it was a
17 complete failure because he recidivated, I mean, within six
18 months of getting out.

19 So, he was not allowed to have a cellphone, but
20 he went and got one in another person's name and then was
21 using the cellphone, engaged in distribution of child
22 pornography.

23 So, I don't know what it is. It's hard to
24 predict. I think the key thing that the Government has
25 emphasized is the likelihood or threat for recidivism or the

1 risk of recidivism here. I think - you know, that even the -
2 you know, none of us are professionals. We look at empirical
3 data, but the evaluator here put a lot of weight on what the
4 expert says about this. They understand the psychology more
5 than any of us do, and he seems to have a lot of concern about
6 this.

7 MR. ROSA-AMBERT: I - I think that the question would
8 be whether he would have the same concerns 20 years from now
9 or 25 and 30.

10 THE COURT: Sure.

11 MR. ROSA-AMBERT: And that - that's the real question
12 before the Court.

13 THE COURT: Right.

14 And I think at some point - right.

15 MR. ROSA-AMBERT: I think that he had it at the time,
16 because -

17 THE COURT: Sure.

18 MR. ROSA-AMBERT: Or she had it, because it's a
19 female evaluator. I think that Dr. Missen (phonetic) Hays had
20 that worry at the time, because that's the information that
21 the client is providing. And I don't think she should be
22 penalized for being honest, quite the opposite, like, the
23 information is coming from here. Just because she
24 acknowledges that she has a problem and she acknowledges that
25 she needs treatment, as she has done before the Court today as

1 well.

2 THE COURT: But that's the whole point is - she has
3 to be candid with the evaluator, so the evaluator -

4 MR. ROSA-AMBERT: Yes.

5 THE COURT: -- can make a good evaluation. And -

6 MR. ROSA-AMBERT: And she was.

7 THE COURT: -- she was, and he - but he took those
8 bits of information and evaluated them, deliberated on them
9 and then wrote his report - or her report - excuse me - it's a
10 female - and it is of the conclusion, a pretty strong
11 conclusion that Ms. Sidney has a risk of recidivating.

12 MR. ROSA-AMBERT: Your Honor, if I may regarding
13 that. I do agree that that was the conclusion, but she also
14 provided a detailed account as to what she would believe would
15 be necessary to lower that recidi- -- recidivism rate.

16 THE COURT: Sure.

17 MR. ROSA-AMBERT: I - she believes that that is
18 present right now but she doesn't make any opinion as to
19 what's going to happen in the future. However, she does
20 believe that that risk would lower if she complies with the
21 recommendation she proposed in the - in the report.

22 THE COURT: All right. I'll consider that.

23 All right. I believe I've heard enough. My
24 initial evaluation of this case is unchanged.

25 Let me pull up, so that I can recite all of the

1 special conditions of supervision that are going to have to be
2 placed on Ms. Sidney. Let me pull up the Presentence Report
3 here - and the Counts.

4 All right. So, the Court does adopt the factual
5 findings contained within the Presentence Report. I do find
6 it all correctly scored, and as a consequence she comes out
7 to, you know, a level 43, which under the Guidelines is - is
8 life.

9 However, the Court believes a life sentence
10 doesn't satisfy the 3553(a) factors and even the Government is
11 not suggesting a life sentence but rather a 60-year sentence.
12 And so, I'm going to make a variance, just given the
13 circumstances of this case, her age, when she will complete
14 her prison sentence. And the length of the sentence that I'm
15 going to pronounce I believe will be sufficient deterrence to
16 others, will be just punishment, will show respect for the law
17 and those other 3553(a) factors.

18 As to Count 1, it is the judgment of the Court
19 that the Defendant is committed to the custody of the Bureau
20 of Prisons for a term of 30 years. That's the maximum on that
21 Count.

22 And as to Count 2, 3 and 4, the Court sentences
23 Ms. Sidney to 10 years to run consecutively to Count 1.

24 On all four Counts, the Court - I'm sorry - on
25 Counts 2, 3 and 4 three years of supervision; as to Count 1,

1 lifetime supervision.

2 And while on supervision, the Defendant is not
3 to commit any other federal, state or local crime. She's to
4 comply with the standard conditions adopted by this Court,
5 abide by any mandatory conditions required by law.

6 In addition, she's not to possess a firearm or
7 other destructive device; cooperate with providing a DNA
8 sample.

9 And I impose the following special conditions:

10 First, she's to have no contact with any of the
11 victims. However, she may have contact with minor Victim 1,
12 her son, if requested and initiated by her son. And that all
13 need to be - she'll need to get permission, though, with her
14 Probation Officer to return any contact that's initiated by
15 her son.

16 And in addition, she is required to register
17 with the Sex Offender Registration Notification Act or any
18 state sex offender registration agency in which she may
19 reside, work or be a student.

20 In addition, she must not have direct contact
21 with any child she knows or reasonably should know to be under
22 the age of 18 without the permission of the Probation Officer.
23 If you do have any direct contact, you should advise your
24 Probation Officer within 24 hours - contacting through written
25 communication, in prison communication or physical contact or

1 through social media or the internet, any sort of social
2 website.

3 You must not possess or view pornographic
4 materials.

5 Let's see.

6 You are - you're required to permit your
7 Probation Officer to access any computer or electronic device
8 that you may own upon request without any prior notice to you,
9 so they may randomly monitor any form of computer electronic
10 device that you may own in the future, such as a cellphone.

11 Let's see.

12 You must participate in a Sex Offender Treatment
13 Program with all the rules and regulations of that program
14 until you complete it with the approval of the Probation
15 Officer and Program Director.

16 You must not preside, work, access or loiter
17 within 100 feet of schoolyards, playgrounds, or other places
18 primarily used by children, such as a Boys and Girls Club
19 without approval by your Probation Officer.

20 You must not seek or maintain employment,
21 supervise or volunteer or participate in any program or
22 activity where minors under the age of 18 would congregate
23 without prior written approval of your Probation Officer.

24 All right. So, those are your special
25 conditions of supervision. Now, let me pull up -

1 The Court is also going to order a special
2 assessment of \$100 as to each Count for a total of \$400.

3 I find the Defendant indigent, so I waive any
4 fine. However, I'm going to order restitution to the six
5 victims, and the Court is going to order the three-thousand-
6 dollar statutory minimum amount as to all six victims. And
7 that'll be payable within 90 days of her release - I'm sorry.

8 The Court will order that payable now, so that
9 it can be taken out of her earnings while at the BOP, so order
10 that payable immediately.

11 Is there anything I've left out?

12 MS. LEO: Your Honor, just for clarification
13 purposes, the supervised release, the length of term for Count
14 1 was that life then?

15 THE COURT: That's the life.

16 MS. LEO: Okay.

17 THE COURT: Yeah. And the others I think the max is
18 three years on those?

19 MR. ROSA-AMBERT: Three years, yes.

20 MS. LEO: The minimum - the minimum is five years,
21 Your Honor.

22 THE COURT: The minimum is five years on the others?

23 MS. LEO: Yes. Yes, Your Honor.

24 THE COURT: Oh, okay. Well, then five years on those
25 to run concurrent.

1 MS. LEO: Thank you, Your Honor.

2 THE COURT: Anything else I missed?

3 PROBATION OFFICER: Your Honor, just for
4 clarification for the judgment. The total amount of
5 incarceration here is 40 years, correct?

6 THE COURT: Correct, 480 months.

7 PROBATION OFFICER: And I - I believe those were the
8 same special conditions that were listed in the PSR, right?

9 THE COURT: Correct. That's where I was reading
10 from.

11 PROBATION OFFICER: Okay. I thought there were two I
12 didn't hear. You must warn of any other people who are using
13 computers, and then you should not subscribe to any other
14 computer online service? It is just -

15 THE COURT: Yeah. I didn't - I'm going to allow
16 the - well, I'll add the - I must have missed the online
17 computer service.

18 How does that read, so that Ms. Sidney can know
19 what it is, if you wouldn't mind reading it.

20 PROBATION OFFICER: You shall not subscribe to any
21 computer online service nor should you access any internet
22 service during the length of your supervision unless approved
23 in advance in writing by the U. S. Probation Officer.

24 THE COURT: That's so vague.

25 PROBATION OFFICER: And may not -

1 THE COURT: That's too vague.

2 PROBATION OFFICER: Okay.

3 THE COURT: For example, if she wanted to look for a
4 job, could she go on the internet to look for a job? You
5 know, I want her to be able to do that.

6 PROBATION OFFICER: Okay.

7 THE COURT: I want her to be able to report to the
8 Probation Office electronically like they're permitted to do
9 from a computer. That's why I didn't band her from owning
10 electronic devices. I just want the Probation Officer to have
11 the ability to make unannounced inspections of her computer
12 and electronic devices. So, I'm not going to add that
13 restriction.

14 PROBATION OFFICER: Okay.

15 THE COURT: She is permitted to access - you can't
16 function in our society without an electronic device.

17 PROBATION OFFICER: And you did say the other
18 condition about warning others to use the computers; we're not
19 including that one?

20 THE COURT: I'm not including that one either,
21 correct.

22 All right.

23 So, this is your sentence. Ms. Sidney, you can
24 appeal; you will have two weeks to do so. You know, there
25 are - this is a lengthy sentence. I know you're going to be

1 70 years or just under that, I think, when you get out - maybe
2 67.

3 You will get good time credit or 15% off that,
4 so that's probably going to knock another several years off of
5 it - five years or so. And there are - well, I don't know if
6 you can early release on - get a year off for the drug
7 program. I doubt it for this offense. Yeah, for this
8 offense, I don't think you're going to be eligible for that.

9 But -

10 MR. ROSA-AMBERT: Your Honor, just in the sake of
11 caution, could you recommend that she be eligible for the RDAP
12 program in the off chance that she does get benefit?

13 THE COURT: Yeah. I mean, I'll recommend she be
14 placed so -

15 MR. ROSA-AMBERT: Thank you.

16 THE COURT: -- so that she can benefit from the RDAP
17 program, but the biggest priority is she's got to be in a
18 facility where she can have her Sex Offender Treatment
19 Program, and there are only two such facilities in the country
20 I think that have those programs. They try to put all -

21 MR. ROSA-AMBERT: There are 14; there's two in Texas,
22 Your Honor.

23 THE COURT: Two in Texas. Okay.

24 MR. ROSA-AMBERT: Yes.

25 THE COURT: Well, that's likely where you will be is

1 one of these two in Texas.

2 All right. Anything else I need to add?

3 PROBATION OFFICER: Just one more clarification, Your
4 Honor -

5 THE COURT: Sure.

6 PROBATION OFFICER: -- from Probation.

7 In regard to the other special assessments, are
8 those waived as well, the judgment for victims in trafficking
9 and the ADEA?

10 THE COURT: Those are the third - so, obviously, my
11 priority is that the victims get their funds first, and
12 there's just no way to pay the other - she's never going to be
13 able to even pay the victims is my belief, given just the
14 constraints of her employment, her age and just her ability to
15 pay. So, I'll waive those others, you know, again, finding
16 her indigent.

17 All right. Anything else?

18 MS. LEO: Your Honor, the Government does have an
19 Order of Forfeiture at sentencing for the Court.

20 THE COURT: So, I saw Judge Miller enter a
21 Preliminary Order of Forfeiture. This is just on her device,
22 the devices?

23 MS. LEO: Yes. Yes, Your Honor.

24 THE COURT: Okay.

25 Any objection to that, the forfeitures?

1 MR. ROSA-AMBERT: No. No, sir. Of course not.

2 THE COURT: All right. The Court will order them
3 forfeited.

4 Can you -

5 MS. LEO: Or do you want me - I'm sorry, Your Honor.

6 THE COURT: Yeah. We don't -

7 MS. LEO: I can file it if that will give the
8 Court - to give her.

9 THE COURT: File it; it will get signed.

10 MS. LEO: Okay.

11 THE COURT: It's a motion?

12 MS. LEO: It's just the Order -

13 THE COURT: For a final -

14 MS. LEO: -- of Forfeiture.

15 THE COURT: Okay. So, you're going to orally move
16 that I enter the Final Order of Forfeiture?

17 MS. LEO: Yes, Your Honor.

18 THE COURT: All right. And if you could e-mail
19 Mr. Rodriguez or e-file it, and I'll get it signed.

20 MS. LEO: Yes, Your Hono

21 I apologize.

22 THE COURT: All right.

23 Thank you.

24 You're excused.

25 (Proceedings concluded at 10:26:37 a.m.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

I, Linda Griffin, court approved transcriber, certify that
the foregoing is a correct transcript from the official
electronic sound recording of the proceedings in the above-
entitled matter.

/s/ Linda Griffin
Linda Griffin

October 13, 2023
Date